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22 UNITED STATES DISTRICT COURT
23 NORTHERN DISTRICT OF CALIFORNIA
24 OAKLAND DIVISION

25 IN RE CALIFORNIA BAIL BOND
26 ANTITRUST LITIGATION

Master Docket No. 19-cv-00717-JST

CLASS ACTION

27 THIS DOCUMENT RELATES TO:
28 ALL ACTIONS

**DEFENDANTS' RESPONSE TO
PLAINTIFFS' ADMINISTRATIVE MOTION
TO SET BRIEFING SCHEDULE AND PAGE
LIMITS REGARDING RESPONSES TO THE
SECOND CONSOLIDATED AMENDED
COMPLAINT AND MOTION TO LIFT
DISCOVERY STAY**

1 **I. INTRODUCTION**

2 Defendants oppose Plaintiffs’ Administrative Motion (ECF No. 99 (“Motion”)) to the extent
3 it asks this Court to limit **28 defendants** to a collective limit of **30 pages** for their opening briefs and
4 **15 pages** for reply briefs on their forthcoming motions to dismiss the Second Consolidated Amended
5 Complaint (ECF No. 94 (“SCAC”)). This proposal, which limits each defendant to barely a page-and-
6 a-half of space across two briefs, is facially unreasonable, but all the more so in light of the fact that
7 Plaintiffs’ SCAC is **70 pages longer** than its predecessor complaint (ECF No. 46 (“CAC”)).
8 Defendants will need space for each defendant to establish that the SCAC falls short of the Court’s
9 order that Plaintiffs make adequate allegations specific to each defendant. Each individual Defendant
10 is entitled to show that there are no meaningful additions particular to it that would correct the
11 shortcomings of the prior pleading.

12 Defendants’ good faith efforts to reach a compromise with Plaintiffs were unsuccessful. As
13 Defendants explained to Plaintiffs before they filed their Motion, Defendants are prepared to follow
14 the same page limits the parties agreed to last year for briefing on the motion to dismiss the CAC: 60
15 cumulative pages of opening briefs; 60 pages of opposition briefing; and 30 collective pages on reply.
16 (See Defs.’ “Proposed Order” (filed concurrently herewith); ECF No. 27 (April 24, 2019 Order
17 granting parties’ stipulated request on briefing).) Defendants intend to work together to file
18 consolidated motion to dismiss briefs and eliminate duplication as much as possible, as they have done
19 in previous filings.

20 Defendants otherwise agree with the briefing schedule Plaintiffs set forth for the motions to
21 dismiss, and with Plaintiffs’ proposal on page limits and briefing schedule for the motion to lift the
22 discovery stay.

23 **II. BACKGROUND**

24 Plaintiffs filed the SCAC and the Motion to Lift Discovery Stay on May 13, 2020. (See ECF
25 No. 94; ECF No. 95.) Defendants and Plaintiffs subsequently met and conferred in an effort to reach
26 agreement on briefing schedule and page limits for Defendants’ anticipated motions to dismiss and
27 opposition to Plaintiffs’ discovery motion. (See Mot. at 2.) The parties agreed to a schedule for motion
28 to dismiss briefing, but did not reach an agreement on page limits. (*Id.*) Defendants initially proposed

1 75 pages of cumulative opening briefs, Plaintiffs countered with 30, and Defendants lowered their
2 offer to 60 pages. (ECF No. 100-1 (Ex. A).) However, Plaintiffs were unwilling to compromise and
3 refused to move off their initial position. Plaintiffs based their intransigence on a unilateral assessment
4 of how many pages Defendants had devoted to “discuss defendant-specific plausibility” in moving to
5 dismiss the CAC. (Ex. A at 2.)

6 In response, Defendants reiterated their proposal that the parties agree to the same page
7 limitations that they agreed to last year in moving to dismiss the CAC (60 pages for opening, 30 pages
8 for opposition, and 30 pages for reply), and explained:

9 The number of pages the defendants used on the last round of briefing to address defendant
10 specific issues has little relevance to what they will need now. Plaintiffs’ Consolidated and
11 Amended Class Action Complaint was 32 pages with 155 paragraphs, and no allegations as to
12 most of the Defendants. Defendants did not need to write a great deal to rebut allegations that
13 did not exist. Plaintiffs’ Second Amended Complaint is over three times as long at 102 pages
14 with 416 paragraphs and, though deficient, does include allegations as to each Defendant.
Accordingly, Defendants will need more space to address them. Additionally, we do not agree
with your assumption that there is nothing to brief besides the sufficiency of the allegations
against each individual defendant.

15 (*Id.* at 1-2.) Plaintiffs did not respond to Defendants on this issue for two days and instead filed the
16 instant Motion.

17 **III. BRIEFING SCHEDULE AND PAGE LIMITS REGARDING DEFENDANTS’** 18 **MOTIONS TO DISMISS**

19 Defendants and Plaintiffs agree on the following briefing schedule for motions to dismiss the
20 SCAC: Defendants shall file motions to dismiss by June 12, 2020; Plaintiffs shall file consolidated
21 opposition briefing by July 13, 2020; and Defendants’ replies shall be filed by August 3, 2020. (*See*
22 *Mot.* at 2.) Defendants object to Plaintiffs’ proposal that the 28 Defendants should share a total of 30
23 pages for opening briefs and 15 pages for reply briefs on their anticipated motions to dismiss, limiting
24 each individual Defendant to roughly a page-and-a-half of space across two briefs. (*See id.* at 3.)

25 Plaintiffs’ SCAC is over 100 pages long, contains 416 paragraphs of allegations, and names
26 28 defendants. (*See* ECF No. 94.) As a matter of right, Defendants are allowed to individually and
27 separately respond to the amended pleading. Defendants intend to work together to avoid burdening
28

1 the Court with voluminous and duplicative briefing, and accordingly propose 60 combined pages for
2 opening and opposition briefs, and 30 pages of reply briefing. (*See* Defs.’ Proposed Order.) Contrary
3 to Plaintiffs’ claim that this would be “excessive” (Mot. at 3), Defendants’ proposal amounts to *barely*
4 *three pages of briefing per defendant*. These are also the same page limits the parties agreed upon
5 and the Court ordered for the CAC. (*See* ECF No. 27.)

6 Plaintiffs’ assumptions and speculation about what page lengths “should be more than
7 adequate” for Defendants’ motions are irrelevant. (Mot. at 3; *see, e.g., id.* at 4 (assuming that “[t]he
8 relevant arguments will be common across [all] the Surety Defendants”).) Nor should Defendants be
9 required to preview their motion to dismiss arguments. (*See id.* at 3-4 (arguing that Defendants have
10 not provided adequate justification for their page limit proposal).)

11 Finally, Defendants disagree with Plaintiffs’ conclusion that “there are no longer any pleading
12 issues common to all Defendants.” (*Id.* at 3.) Many key allegations in the SCAC are different from
13 the CAC. In other instances, the SCAC contains new allegations that raise issues that were not present
14 before. Defendants intend to jointly move on these issues where appropriate.

15 As Defendants explained to Plaintiffs during the meet-and-confer process, and as Defendants
16 did in response to the CAC, Defendants intend to work together to eliminate duplicative briefing as
17 much as possible and reduce the burden on the Court. (*See* Ex. A. at 2.) But Plaintiffs’ proposal
18 limiting each Defendant to less than two pages of total motion to dismiss briefing is entirely
19 unreasonable.

20 **IV. BRIEFING SCHEDULE AND PAGE LIMITS REGARDING PLAINTIFFS’ MOTION** 21 **TO LIFT DISCOVERY STAY**

22 Defendants do not object to the schedule Plaintiffs propose for the remaining briefing on
23 Plaintiffs’ Motion to Lift Discovery Stay, which is the same schedule set forth by the Local Rules.
24 (*See* Mot. at 4; Civ. L.R. 7-3.) Defendants also do not object to the page limitations on the remaining
25 briefing for the Motion to Lift Discovery Stay that Plaintiffs propose. (*See* Mot. at 4.)

26 **V. CONCLUSION**

27 For the foregoing reasons, Defendants respectfully request that the Court enter the briefing
28 schedule and page limits in Defendants’ Proposed Order filed concurrently herewith.

1 Dated: May 19, 2020

Respectfully submitted,

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24 **ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)**

25 I, Beatriz Mejia, attest that concurrence in the filing of this document has been obtained from
26 the other signatories. Executed on May 19, 2020, in San Francisco, California.

27 /s/ Beatriz Mejia

28 Beatriz Mejia